

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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CLARENCE DELANEY, JR.,

Plaintiff,

-v.-

Civil Action No.  
1:11-cv-684 (GLS/RFT)

MONTGOMERY TRANSITIONAL SERVICES,  
INC.; KIMMBERLI FLORY; JANE DOE; NEW YORK  
STATE OFFICE OF MENTAL HEALTH; JANINE  
DYKEMAN, Executive Director of Montgomery  
Transitional Services, Inc.; LORI LAVENIA, Apartment  
Counselor; SUE HERBA, Entitlement Specialist,

Defendants.

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APPEARANCES:

OF COUNSEL:

**FOR THE PLAINTIFF:**

CLARENCE DELANEY, JR.  
Plaintiff, *Pro Se*  
P.O. Box 6071  
Albany, New York 12206

GARY L. SHARPE,  
DISTRICT COURT JUDGE

**ORDER**

The above-captioned matter comes to this court following a Report-  
Recommendation by Magistrate Judge Randolph F. Treece, duly filed  
November 17, 2011. Following ten days from the service thereof, the Clerk

has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Randolph F. Treece filed November 17, 2011 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that the amended complaint is dismissed (Dkt. No. 11) is dismissed pursuant to 28 U.S.C. §1915(e)(2)(B)(ii) & (iii) for failure to state a claim upon which relief may be granted and for failure to establish subject matter jurisdiction; and it is further

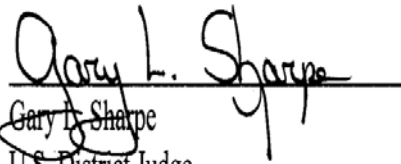
ORDERED, that in light of Plaintiff's *pro se* status, prior to any dismissal, Plaintiff is afforded an opportunity to amend his complaint consistent with the instructions in the Report-Recommendation on or before February 9, 2012; and it is further

ORDERED, if plaintiff fails to file an amended complaint in accordance with this Order, that this action is dismissed without further order of the court; and it is further

ORDERED, that the Clerk of the Court is directed to serve a copy of this order upon the plaintiff by regular and certified mail.

IT IS SO ORDERED

Dated: January 10, 2012  
Albany, New York

  
Gary L. Sharpe  
U.S. District Judge